



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
 RICHARD L. METZLER)

Appearances:

For Appellant: Richard L. Metzler,
in pro. per.

For Respondent: Mark **McEvilly**
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Richard L. Metzler against a proposed assessment of additional personal income tax in the amount of \$343.20 for the year 1977.

Appeal of Richard L. Metzler

The sole issue presented is whether appellant qualified for head of household status during 1977.

Appellant claimed head of household status for 1977, and on his return attached a note indicating that a friend, James Wesley Scott, qualified him for such status. Subsequently, respondent sent a routine questionnaire to appellant relative to his claim for head of household treatment. Appellant replied that Mr. Scott was an unrelated companion whom he supported.

Respondent disallowed appellant's claimed head of household status on the ground that Mr. Scott, being unrelated to appellant **by blood** or marriage, did not qualify him for that status. Appellant urges that he should be given head of household treatment in view of the fact that he furnished Mr. Scott's total support during 1977 and, consequently, made it unnecessary for Mr. Scott to participate in the State's public assistance program. After **due consideration**, respondent affirmed its action. This appeal followed.

In prior appeals we have held that the taxpayer did not qualify as head of household based upon his support of an **unrelated friend**. The decisions in these appeals were based upon section 17044 of the **Revenue and Taxation Code**, which precludes a taxpayer from being considered a head of household when the individual otherwise qualifying him for that status is unrelated by blood or marriage. (See Appeal of Stephen M. Padwa, Cal. St. Bd. of Equal., May 10, 1977; Appeal of Amy M. Yamachi, Cal. St. Bd. of Equal., June 28, 1971.)

We believe our decision in the instant appeal must be governed by the same principles set forth in the Padwa and Yamachi opinions. Here, appellant has cited **the case of F. Ensminger**, ¶ 77,224 P-H Memo. T.C. (1977) in support of his position. The finding in **Ensminger, however**, is squarely in line with **respondent's position**. Under the circumstances, respondent's action in denying appellant's claimed head of household status for 1977 must be sustained.

Appeal of Richard L. Metzler

ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Richard L. Metzler against a proposed assessment of additional personal income tax in the amount of \$343.20 for the year 1977, be and the same is hereby sustained.

Done at Sacramento, California, this 18th day
Of November , 1980, by the State Board of Equalization,
with Members Nevins, Reilly, Dronenburg and Bennett present.

Richard Nevins, Chairman

George R. Reilly, Member

Ernest J. Dronenburg, Jr. , Member

William M. Bennett, Member

, Member